

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
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April 25, 2001

Docket Office
California Public Utilities Commission
505 Van Ness Avenue, Room 2001
San Francisco, California 94102

Re: R.00-10-002

Dear Docket Clerk:

Enclosed for filing in the above-entitled matter are the original and five copies of the **“COMMENTS OF THE CALIFORNIA ENERGY COMMISSION ON DECISION 01-04-006, RELATIVE TO FOSSIL FUELS AND ROTATING OUTAGES”** This filing has been served to all parties on the service list for these proceedings, as well as the Presiding Commissioner, President Loretta M. Lynch, and Administrative Law Judge Linda R. Bytof. We request that the extra copy of this document be file-stamped and returned for our records. Enclosed is a stamped, self-addressed envelope for your convenience.

Thank you for your attention to this matter.

Very truly yours,

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Enclosures

cc: Service List R.00-10-002

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking Into the Operation of Interruptible Load Programs Offered by Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company and the Effect of These Programs on Energy Prices, Other Demand Responsiveness Programs, and the Reliability of the Electric System.

Rulemaking 00-10-002
(Filed October 5, 2000)

**COMMENTS OF THE CALIFORNIA ENERGY COMMISSION ON DECISION
01-04-006, RELATIVE TO FOSSIL FUELS AND ROTATING OUTAGES**

The California Energy Commission (“CEC”) is pleased to provide these additional comments on Decision (“D.” or “Decision”) 01-04-006, adopted by the California Public Utilities Commission (“Commission”) April 3, 2001. The decision invites the CEC to report changes needed in the Commission’s curtailment priorities to further protect the public health and safety.¹

The CEC participated in the technical workshops in this proceeding and also filed comments on both the Commission’s Energy Division Report and the draft decision. In addition, the CEC has a statutory mandate under Section 25216(a) of the Public Resources Code to undertake a continuing assessment of

¹ D.01-04-006 at p. 51.

trends in the consumption of energy and to analyze the social, economic and environmental consequences of these trends.

In accordance with that mandate and the invitation of the Commission, the CEC respectfully offers these additional suggestions.

I. The Commission should expand the current essential customer status for fossil fuels used in connection with electric “system operation” to all fossil fuels.

The decision adopts a priority system for rotating outages that continues “essential use” status for “electric utility facilities and supporting fuel and fuel transportation services critical to continuity of electric power system operation.”² This is consistent with an earlier decision of the Commission, D. 91548, adopted April 15, 1980, which provided an identical exemption.³

However, only that fossil fuel intended for the production of electricity is deemed to be an essential use. There is no protection from curtailments or outages for the remaining fossil fuel infrastructure used to produce gasoline, diesel fuel and aviation fuel for the citizens and workers of California.

Fossil fuels operate in an infrastructure of crude oil production, which is then transported through pipelines to a refinery, then back to pipelines for

² Id. at Attachment C, item 1.F.

³ D.91548, Appendix B, also reprinted as Attachment B for D.01-04-006.

transportation to their ultimate end-use or storage.⁴ Unlike most other industries and manufacturing operations, the curtailment of electricity to a link in this process can have both a relatively long-term effect and a ripple effect.

The sensitivity of refineries to curtailments is the most sensitive. A curtailment of electricity to a refinery lasting only a minute can result in the total shutdown of the refinery for up to three weeks.⁵

In addition, the disruption, by a rotating outage, of any of these elements in the chain of production, has a ripple effect. In January 2001, as a consequence of continuing rotating outages, pipeline companies were unable to deliver materials for the production of gasoline and diesel fuel. Subsequently, pipeline and refinery facilities were forced to halt operations. Concern on the part of the CEC lead to its analysis and conclusions being provided to Governor Davis and the Commission.

II. Essential use status for all fossil fuels is necessary to protect the public health and welfare.

In its D.01-01-056, as a result of the CEC's analysis, the Commission recognized that the repeated interruptions of electricity to the state's fossil fuel infrastructure threatened the public health and safety of Californians. The Commission's Decision continues to recognize that "public health and safety

⁴ Transcript of March 22, 2001, testimony of Evelyn Kahl, p. 285.

⁵ Ibid.

were at risk due to the effect on the availability and price of all petroleum products as a result of recent curtailments of electricity...”⁶

The availability of gasoline, diesel fuel and aviation fuel is critical to the public health. These fuels are used by police vehicles, ambulances, fire trucks, the military, etc. Virtually all of those customers currently defined as “essential use” are not only consumers of electricity, they are also consumers of fossil fuels. Without these fuels their ability to operate would be seriously impaired, if not destroyed.

The supply and demand balance of fossil fuel in California is extremely precarious. The shutdown of just a single refinery can lead to a supply shortage and a price spike.⁷ Price spikes, in turn, can last up to four weeks.

III. Essential use status for all fossil fuels is necessary to protect the state’s economy.

The omission by the Commission to shield all fossil fuels from rotating outages causes the potential for a broader energy crisis. Shortages of gasoline, diesel and aviation fuel would have a profound impact on the state’s economy and ultimately threaten national security.

Section 25350 of the Public Resources Code is reprinted here in pertinent part:

⁶ D.01-04-006 at pp. 50-51.

⁷ Currently, California has only 13 refineries that produce fuels for the California market.

- (a) The Legislature finds and declares that the petroleum industry is an essential element of the California economy and is therefore of vital importance to the health and welfare of all Californians.
- (b) The Legislature further finds and declares that a complete and thorough understanding of the operations of the petroleum industry is required by state government at all times to enable it to respond to possible shortages, oversupplies, or other disruptions and to assess whether all consumers, including emergency service agencies, state and local government agencies, and agricultural and business consumers of petroleum products have adequate and economic supplies of fuel.
- (c) The Legislature further finds and declares that information and data concerning all aspects of the petroleum industry...are essential for the state to develop and administer energy policies that are in the interest of the state's economy and the public's well-being.

To reiterate, the CEC believes that subjecting the state's fossil fuel infrastructure and associated ancillary services⁸ to unplanned outages would have a devastating effect on the production, availability and price of gasoline, diesel fuel and aviation fuel. These fuels are critical to the state's manufacturing and agricultural operations. Unlike a shutdown of a retail establishment, the shutdown of a refinery can have extreme consequences. There is an essential nature to fuel, which justifies its being given essential customer status.

IV. The OBMC program and the exemption for net electricity producers is of limited application to the fossil fuel chain of production

The Commission's Decision notes that:

⁸ Associated ancillary services are those facilities located outside the refinery gate that are essential to the continued operation of the refinery. Continuous refinery operations depend on these facilities to either provide an essential service to the refinery (such as a hydrogen plant) or perform a vital outlet for the refinery (such as a sulfur plant or polypropylene plant). Even if the refinery could be isolated from electric power curtailment, loss of any of these associated ancillary services would force the refinery to cease operations.

The ability of many fossil fuel producers to either participate in the OBMC program or utilize the exemption from outages for net electricity producers should address much of the CEC's concerns.⁹

These limited opportunities for an exemption from mandatory curtailment are of little utility for entities in the fossil fuel chain. The OMBC program, as adopted in the Decision, requires that up to 15% of load be available for curtailment. This is simply not workable for a refinery. As expressed during oral argument, the lobby lights of the refinery could be dimmed, but not much else.¹⁰

In addition, the Decision exempts from mandatory curtailment "transmission level customers who are supplying power to the grid in excess of their load at the time of the outage"¹¹ A subset of the refineries take service at the transmission level. Another subset has self-generation capacity, although not necessarily in excess of their usage. These are not identical sets.

In short, these purported avenues to an exemption do not meet the CEC's concerns.

V. The "coordination" of outages does not prevent refinery shutdown

D.01-04-006 authorizes utilities to "coordinate interruptions, to the extent feasible" between fossil fuel producers, pipelines and users.¹² Finding of Fact

⁹ D.01-004-006 at p. 51. (Footnote in the original deleted.)

¹⁰ Transcript of March 22, 2001, testimony of Evelyn Kahl, p. 287.

¹¹ D.01-004-006 at p. 47

¹² Id. at p. 51

#53, a variation on this theme, stipulates that “outages affecting fossil fuel producers, pipelines, and users, if not coordinated, may cause unacceptable jeopardy to public health and safety.” While “coordinating” outages has a simplistic appeal, within the context of the fossil fuel production chain and with respect to refinery operations, it is ineffectual. For a refinery, an unplanned outage of any duration sends the facility into emergency shutdown mode. As noted, it can take up to three weeks for the refinery to resume full production. The fact that pipelines in and/or out of the refinery are curtailed at the same time as the refinery is of little consequence.

VI. The Commission should grant “essential customer” status to any category of consumer who can make compelling economic arguments.

While the fossil fuel infrastructure is of vital importance to California’s economy, it is possible that other categories of consumers may be similarly situated. That is, there may be other manufacturing or agricultural operations for which electricity curtailment has a sudden, disruptive and long-lasting effect that results in severe economic damage.

The CEC urges the Commission to adopt an economic standard by which applications for the essential customer class can be evaluated. While the public health and safety of California’s residents and workers have the highest priority in the formulation of state policy, the CEC believes that the economic consequences of state policy deserve close consideration.

The CEC concedes that the greater the number of customers who are granted essential service status the fewer customers there are remaining who can be curtailed. However, the latter pool of customers is likely to be enlarged with the addition of transmission-level customers from the service territories of Pacific Gas and Electric and San Diego Gas and Electric. In addition, there is the possibility that reconfiguring circuits may free up non-essential customers

VII. Conclusion

For the reasons noted above, the CEC urges the commission to expand the essential customer classification to all fossil fuel infrastructure and associated ancillary services. This is consistent with prior Commission decisions, language in the Decision adopted by the Commission and legislative intent. The CEC also urges the Commission to develop an economic standard to apply to other categories of customers for whom curtailment would spell economic disaster.

Respectfully submitted, etc.